The Initiative and Referendum

THE NATIONAL ECONOMIC LEAGUE

THE INITIATIVE AND REFERENDUM

ARGUMENTS PRO AND CON BY
A SPECIAL COMMITTEE OF
THE NATIONAL ECONOMIC LEAGUE

MEMBERS OF THE COMMITTEE

FAVORING	OPPOSING
ROBERT L. OWEN U. S. Senator from Oklahoma	**GEORGE SUTHERLAND** U. S. Senator from Utah
WILLIAM ALLEN WHITE Editor of the Emporia (Kansas) Gazette	**EMMET O'NEAL** Governor of Alabama
FREDERIC C. HOWE Director of the People's Institute of New York	**FREDERICK P. FISH** Former President of the American Tel. & Tel. Co.
LEWIS J. JOHNSON Professor of Civil Engineering, Harvard University	**CHARLES F. A. CURRIER** Professor of History and Political Science, Mass. Inst. of Tech.

PUBLISHED BY

THE NATIONAL ECONOMIC LEAGUE

6 BEACON STREET

BOSTON, MASSACHUSETTS

Price, bound in cloth, postage prepaid . . . . 50c per copy
Price, in paper cover, postage prepaid . . . . 25c per copy
Price, in quantities at special prices.

INTRODUCTION

In presenting the following reports it may be well to explain for the benefit of those who are not familiar with the objects of the National Economic League, that the subject therein discussed was selected by the League through a referendum vote of its National Council as the issue of paramount importance for consideration during the season of 1911-12. The preparation of the reports was undertaken in order to carry out the general plan of the League which specifies that special commissions shall be appointed to study and investigate subjects discussed and submit reports covering their findings.

The officers of the League desire to take this opportunity on behalf of the members to thank the committee for the valuable service which it has rendered.

CONTENTS

Caustic-Claflin Co., Printers
Cambridge, Mass.

ARGUMENT IN FAVOR OF THE INITIATIVE AND REFERENDUM

To the Members of the National Economic League:

We have the honor to submit the following argument in favor of the adoption of the Initiative and Referendum as a valuable adjunct to representative government.

Our fathers founded this government in order to secure for the people—all the people—the blessings of life, liberty and happiness. They devised institutions and machinery to that end. Today, after the lapse of a century and a quarter, combinations of power have grown up under these institutions in the face of which, for multitudes of our population, life is precarious, liberty practically despaired of, and happiness, except of a kind enjoyed by the Roman proletariat or the plantation slave, unknown. We know that no one would be more impatient of such conditions than our revolutionary forefathers, and no one more resolute in seeking a remedy. Honor to their memory requires us to scrutinize their work, and to modernize it if necessary, just as they modernized their inherited institutions.

Ideals of the Fathers Not at Fault

Accordingly we turn first to the spirit and purposes underlying our institutions. We find nothing to criticize, even after all this time. We can suggest no improve-

ments in this quarter. Even now we are inspired with a new enthusiasm by the ideals expressed by our fathers in founding this Republic, the ideals so impressively reaffirmed by Lincoln at Gettysburg.

Scrutiny of Their Governmental Machinery

We turn next to the details of their governmental machinery. Little is left of their industrial methods and institutions, and perhaps their political devices too are out of date. If they are, possibly it is not too late to supplement them or replace them with better.

The legislative machinery underlies all else. We observe that our law-making is entrusted to representative bodies. The make-up of these bodies is, nominally at least, under public control, but the output (except amendments to state constitutions) is not even nominally under public control, except as such control may be exerted through pressure upon individual representatives. When we consider the extent to which such pressure is made effective today by the greedy and highly organized few, rather than by the mere normally interested and unorganized many, a legislative system which may have been safe once comes to look decidedly defective.

A Fundamental Defect

Further reflection convinces us that this lack of adequate popular control of results is not only a defect but is *the fundamental* defect in our legislative mechanism. Its correction is therefore essential, and is logically the first step in the modernization of our political machinery. This done, improved legislation is assured as fast as the majority can agree upon it. This done, all unnecessary and undesirable obstacles to progress will have been minimized. Until this is done, we have little reason to

hope for permanently better conditions, except at an utterly unreasonable cost in effort and delay. The importance of concentrating attention upon this issue is manifest.

What Can Be Done

The next question is, How shall the public *get* adequate control of results?

The answer is, We must assert our natural right to revise the work of our representatives. We must do this revising ourselves. There is no one else to do it. To do it we must supplement the existing legislative machinery with a workable, orderly, and properly guarded contrivance to enable us to enact laws, to veto them, to amend them or to repeal them by direct popular vote over the head of legislatures and city councils, in the instances when these bodies fail to meet the public will. In other words, we must considerably extend the practice of direct legislation by the people, already familiar to us in the New England town meeting, and in the popular ratification of amendments to state constitutions.

Fortunately the way to do this has been devised and tested and has met expectations on a city-wide and state-wide scale. It involves two devices developed in the last few decades, the Initiative and the Referendum, now included under the single term Direct Legislation.

Initiative and Referendum

The Initiative enables the people to enact desirable measures by direct popular vote, when such measures have been or are likely to be ignored, pigeonholed, amended out of shape, or defeated by the legislature. Measures passed in this way may be entirely new laws, or they may, of course, amend or repeal existing laws.

The Referendum enables the people, by direct popular vote, to veto recent enactments of their representatives.

The Initiative corrects sins of omission.

The Referendum corrects sins of commission.

The Initiative is set in operation by volunteer groups of citizens,—civic, labor, or mercantile organizations,—who draw up laws which they think good for themselves, or the public, or perhaps both. If they can get a certain moderate percentage* of the voters of the city or State to sign the requisite petition the measure goes to the Council or legislature, and if this body refuses to adopt it within a specified time without amendment, the measure must be transmitted unchanged to the people for their decision. If the legislative body thinks it can produce a better enactment to the same effect, it may draw it up and send it to the people, with the other, as a competing measure. The voters then choose between them, or reject both. In some jurisdictions, notably Oregon, initiative measures go directly to the people without previous submission to the legislature. Other modifications in details may be expected as time goes on.

The Referendum, likewise upon petition,* brings newly passed legislation to the popular tribunal for veto or confirmation.

The need of interference with the work of the representatives is greatly reduced by the mere existence of the system, and the number of laws actually coming to popular vote is a small fraction of the whole.

*The number of signatures required in these petitions ranges, in different States, from five to eight percent. of the voters for initiative petitions for ordinary laws; from eight to fifteen percent. for initiative petitions for constitutional amendments; and from five to ten percent. for referendum petitions. The usual percentages are eight for initiative, and five for referendum petitions.

The Recall and Its Relation to Direct Legislation

Direct Legislation is likely to result, before being long in operation, in the establishment of the Recall, which is the properly guarded power of removal of unsatisfactory officeholders before the expiration of their terms. Thus the people gain the power of removal, the logical supplement to their already existing power of election.

The Recall, though obviously a device indispensable for popular control, and usually, in city charters, established simultaneously with Direct Legislation, will not be discussed further here. It should be looked upon as one of the numerous desirable but subordinate measures, like Preferential Voting, Direct Nominations and the Short Ballot, which may safely be left to be gained by subsequent enactment in the larger jurisdictions like our states. This is strikingly true in Massachusetts where the Recall has been suggested, if not actually authorized, in the Constitution since its adoption in 1780, as will be seen from Art. VIII of that Constitution quoted below, and could, possibly, unlike the Initiative and Referendum, be made operative without constitutional amendment.

Furnishing Information to Voters

The Initiative and Referendum, as now advocated, carry with them, of course, adequate and systematic means, independent of the newspapers, of furnishing each voter the full text of the measures to be voted on; the condensed form in which they will be printed on the ballot; statement of the reasons for and against each measure; and the names of those behind each proposition.

In Oregon the Secretary of State edits this information and mails it in pamphlet form to each voter in the State fifty-five days before election. At least eight weeks have elapsed by that time since the circulation and filing of the petitions. This is found to afford ample time for deliberation and discussion, and the pamphlet provides an adequate basis for decisions. Those who wish to insert arguments in this pamphlet pay the cost of paper and printing—some eighty dollars per page—and the State bears the rest of the cost of the pamphlet and its distribution. In initiative cases, supporting arguments are accepted from none but duly accredited representatives of the friends of the measure; any one who will pay the cost, however, may insert arguments against such a measure. In referendum cases arguments upon either side may be inserted by any one willing to pay the cost. In the election of June, 1908, when nineteen measures were acted upon by the electorate, the State Pamphlet was a document of one hundred and twenty-five octavo pages.

Oregon voters protect themselves still further from false or misleading campaign literature by a provision of their admirable Corrupt Practices Act—a comprehensive measure, based on English practice, which came from the people by the Initiative—which prescribes a heavy penalty for circulating political literature without the names of its authors and publishers.

In Oklahoma, there is a State Pamphlet for informing voters as in Oregon, but with some interesting differences in detail. In Oklahoma, as is proposed in Massachusetts, initiative measures go first to the legislature. Hence all popular voting is upon measures which

have had recent legislative action. A joint committee of House and Senate is therefore naturally called upon to prepare the arguments supporting the legislature's position. The opposing argument is drawn up by a committee representing the petitioners.

The argument for each side of each measure is restricted by the Oklahoma law to two thousand words, one-fourth of which may be in answer to opponents' arguments. The direct argument on each side is prepared and submitted to the Secretary of State, who transmits it to the opposing side to serve as the basis for the rebuttal just mentioned and thus complete the argument. These arguments on all the questions are then assembled in the State Pamphlet and distributed to all the voters of the state a suitable number of weeks before the election. The cost of printing and distribution is borne by the public treasury.

The Oklahoma plan has some striking merits. It requires the legislature to state the reason for the action which it has taken. Doubtless this reason is often good and sufficient, but perhaps more certainly so when the lawmakers know in advance that they may have to defend their position. The legislature's views on the measure should be of great value to the voters.

More important still, it ensures the presentation of a negative argument. Experience in Oregon has already shown that a negative argument is not always forthcoming when left to be supplied by volunteers. A campaign of silence is sometimes wisely preferred by interests at whom an initiative measure is aimed, to the revelation of weakness which would result from a formal attempt

at defence. They well knew that voters are likely, from sheer force of habit, thoughtlessly to concede more in the defence of a long-established wrong than its beneficiaries would dare claim for it. The Oklahoma plan of informing voters requires each side to show its hand. Bluffing is eliminated. Privilege has to come out in the open and state such case as it has. Silent contempt is not permitted to do duty as argument.

Both the Oregon and the Oklahoma systems of disseminating information do much to forestall the misleading of voters through the newspapers. Some expense is involved, but this point is not apt to be pressed except by those opposed to the whole system on other grounds. The body of voters well understand that one bad law or one carelessly granted franchise may cost the public in actual dollars and cents many times the cost of the State Pamphlet.

Hopeful Outlook for Representative Government

Supplemented by the Initiative and Referendum, to serve as a permanent background and for application when called for, the representative system will gradually but surely enter upon a period of honor and usefulness hitherto never surpassed and probably never equaled. Relieved of the unnatural excess of power under which they now stagger and sometimes fall, legislative bodies will cease to be attractive objects for bribery and secret influence. Log-rolling will greatly diminish. The power of bosses and rings will be undermined. Seats in the legislatures will then begin to be

unattractive to grafters. At the same time they will become more attractive to high-minded, public-spirited citizens. There will be a fairer chance that a man clean when elected will stay clean. It will make it safe to reduce the size of legislatures and to diminish greatly the number of elective officers. The party machines and bosses once permanently out of control, we may reach the point of competing successfully with the corporations in attracting the best young talent to the public service.

With Direct Legislation in vogue, it is not necessary to retire a faithful legislator to express disapproval of some of his measures. The electorate, while returning the man to office, can overrule the measures with no more reflection on his honor or usefulness than is involved in the overruling of a lower court by a higher. Honest and able representatives are hence likely to be repeatedly re-elected. Long tenure is as valuable to public as to private business. Where the people have been in control long enough for this result to show as in Switzerland and in the New England towns, they are seen to act upon this principle. In Switzerland it is rare that a new member appears in a legislative body except to fill a vacancy due to death or voluntary retirement. In New England towns it is common for faithful officials to be retained in office practically for life, their annual re-elections being frequently uncontested.

With a seat in the legislature thus robbed of its charms for all but the public-spirited, and with re-election practically assured to men of proved merit, real legislative experts in good number may gradually be developed.

Representative Government Yet to Be Given a Fair Trial

In view of such untested possibilities, it is beside the mark to wonder whether representative government is a failure. We begin to realize that it has not yet been fairly tried, at least not in recent years. We realize that our legislators have been working under almost intolerable conditions. They have been continually exposed to temptations that no ordinary man ought to be asked to face, and it is a tribute to human nature that so many of our legislators have stayed straight. Under Direct Legislation legislators will have all the power that is ever accorded to representatives and agents in business, which is all that is wholesome or attractive to worthy citizens of a democratic republic. That final enacting power is far from essential to the dignity of a legislative body is shown by the universal respect in which our American constitutional conventions have always been held.

Improved Status of the Voter

While enough power is thus left with the representatives, a salutary increase of responsibility is thrown upon the voter. It brings him, to some purpose, into closer touch with great affairs. It enables him to vote for measures apart from men, and for men apart from measures. He can begin to assume the stature of a man, to become a sovereign in fact as well as in fancy. It will enable him to settle something at an election besides the party label of office holders, which in turn settles little except which faction shall dispense the spoils of office. For we know only too well that platforms are "merely to get in on, not to ride on." Even

if they were expected to be observed, platforms are composites which rarely represent, except in the roughest way, the views of any one thoughtful voter.

Simplicity of the Voter's Task

The new task proposed for the voter, though inspiring, is relatively simple. It differs widely from legislation in the ordinary sense.

The originating and drafting of bills can manifestly never fall as a burden on the mass of the voters. For this service the community can always command ability as wise, disinterested and as practised in legislation as any who now do such work. The average voter's part in the work is deliberation, discussion and the registry of his decision. This is no new task for him; the only novelty is in having a chance to do it intelligently, and to see his decision go into effect.

The voter, going into the booth, has known for months just what is coming up and in just what form it is coming up. There is no thought of possible amendment. With regard to each measure he has simply to approve or reject. He has had plenty of time to make up his mind. If a measure is objectionable in purpose or form, or is lacking in clearness, he will of course reject it and await—or cause—its reappearance in a more acceptable form at a subsequent election.

The voter is thus more like a juror than like a legislator. His capacity for intelligent, discriminating work at a single election is therefore large—much larger, as experience shows, than at first thought might seem possible.

In 1909, for example, the voters of Portland, Oregon, in a city election, besides voting for mayor and other officers, voted discriminately and with sustained interest on thirty-five measures, thirteen of which they passed. The average vote on each of the thirty-five measures was slightly over eighty-one per cent. of the total vote for mayor, with a range from seventy-five per cent. to ninety per cent. The majorities, both yes and no, were sometimes large, sometimes small. There is every evidence that the voting in each case reflected the calm judgment of the voters.

In Denver, in the election of May, 1910, the voters besides electing city officers, dealt discriminately with a list of twenty-one measures, some of them trickily worded. Moreover, in this case, they had to face an enormous corruption fund and all that the combined party machines, and selfish interests could do to mislead. The result was a triumph for the people at every significant point.

The people's capacity for Direct Legislation is not likely to be subjected to severer tests than it has already stood with signal success.

New Talent Freely Enlisted for Public Service

Through Direct Legislation, the State will offer an attractive field of usefulness for such of her citizens as do not care to give up their whole time to public life. Public-spirited citizens, without dislocation of business or profession, may and will devote a much larger share of their time than now to the consideration of public questions. If they conceive of a desirable step in legislation, they will not have to contrive to

get into office and to stay there long enough to accomplish their ends. They have a dignified and honorable method of presenting to the final authority, for adoption or rejection, the best fruits of their labors, free from the risk of mutilation or distortion by ill-informed, over-worked or corrupt legislatures. This alone would be a powerful means of bringing spontaneously to the public service, and at no expense, a large amount of talent of the best possible sort for which there is now little encouragement in public life. This is the talent on which we might well depend for the most serious law-making, but which we have had, thus far, too little chance to utilize. The legislature, will thus be facing a reasonable and wholesome competition and the public cannot fail to profit.

Direct Legislation a Safeguard against Mob Rule

Sometimes officeholders or party machine men profess a great fear that Direct Legislation will result in "mob rule." This must be taken to mean that they fear, probably with reason, that the people, after weeks of deliberation and with adequate information, would not support their pet schemes. Prospective abundance of popular majorities in their favor would neither excite their protests nor be called by them "mob rule." No; mob-action finds a more promising field in nominating conventions and even town meetings than in the long process of gathering signatures, weeks of discusssion and deliberation, and the quiet vote on an Australian ballot in isolated, individual booths.

Direct Legislation is not only a safeguard against mob rule, but against the only thing likely with us to

lead to violent revolution, namely, machine rule for the benefit of the privileged few. Majority rule precludes both mob rule and machine rule, for majority rule brings into play the great patient mass of honest, hardworking citizens, ordinarily silent and little felt. They abhor alike the violent methods of the mob and the intriguing of "politics." No less do they shrink from making themselves individually conspicuous in hopelessly protesting against powerful wrongs which they can, though they ought not to, endure. They are likely to suffer in silence until driven to extremes, rather than seek relief through the distasteful and inadequate means now at their disposal.

To provide the people with orderly and regular means of expressing themselves on equal terms with all their neighbors, with the certainty that their will thus expressed will take effect, is the logical way to ensure the healthy and natural progress which in the long run is the only preventive of violent upheaval.

Deeper Value of Direct Legislation

An additional advantage in Direct Legislation is the education which it affords the average voter. One cannot help believing that the consequent toning up of the public standard of thought and morals would be in the long run the most important feature of the system. Direct Legislation tends thus automatically to produce a highly-trained and self-respecting electorate, and to lay the deepest and most promising foundation for permanent good government.

Direct Legislation is the only orderly means known for accurately and unmistakably expressing the public

will as to legislation, and for making it prevail. It gives at last a fair approach to a proper and worthy means of registering public sentiment, well defined by some one as "the deliberate and reasoned judgment" of the people. It is as effective a balance wheel against mere popular clamor as it is a safeguard against the silent scheming of the crafty few. Direct Legislation thus opens for the first time a fair prospect for the early realization of the cherished American ideal—a government by as well as of and for the people.

Development of Direct Legislation

The Direct Legislation idea is no novelty among free peoples. It may be seen in the institutions of the Plymouth Colony. It appears in our time-honored New England town meeting and the even more ancient Swiss Landesgemeinde, and German folk-moot, all of them perfect exemplifications of the Direct Legislation principle on a small scale. It appears in our popular ratification of state constitutions and their amendments, usually insisted upon from the first, in spite of the pitifully inadequate facilities of our early days.

More recently, we note the steady extension of Direct Legislation through the Initiative and Referendum from canton to canton in Switzerland, its application to Swiss federal legislation—the Referendum in 1874 and the Initiative for constitutional amendments in 1891—and its adoption in the last decade by city after city and State after State in this country. Direct Legislation (usually accompanied from the start by the Recall) is an essential feature of nearly all modern city charters, and those without it will doubtless have

to add it sooner or later to get satisfactory results. Notable among the Direct Legislation cities stand Los Angeles, Seattle and Denver, besides DesMoines, Spokane, Grand Junction, Colo., and scores of others of the so-called commission governed cities. The direct legislation states are South Dakota, Oregon, Montana, Oklahoma, Maine, Missouri, Arkansas, Colorado, Arizona and California.

Now, in 1912, constitutional amendments for establishing the initiative and referendum have been endoresd by legislatures or by constitutional convention and are before the people for adoption in Washington, Idaho, Wyoming, North Dakota, Nebraska, Mississippi, Nevada, Wisconsin and Ohio.*

How It Works in Switzerland

For examples of the effect of Direct Legislation, we naturally turn first to Switzerland, where it has been

*The initiative and referendum is in force today in every American State in which it has come to popular vote. The vote by each State adopted this measure, with the date, is as follows:

		Yes	No
South Dakota	1898	23,816	16,483
Utah	1900	19,219	7,786
Oregon	1902	62,024	5,668
Montana	1906	36,374	6,616
Oklahoma	1907	180,333	73,059
(Vote on State Constitution)			
Maine	1908	53,785	24,543
Missouri	1908	177,615	147,290
Arkansas	1910	91,363	39,680
Colorado	1910	87,141	28,698
Arizona	1911	12,187	3,822
(Vote on State Constitution)			
California	1911	168,744	52,093
Ohio	1912	312,592	231,312

It should be stated that in some of these earlier states the measures are largely inoperative through excessive restrictions, as in South Dakota and Montana, or through failure of the legislature to provide the requisite detailed legislation carelessly left to it in the amendment, as in Utah. For this reason Utah is not named above in the text.

The people of Illinois passed advisory votes in favor of the initiative and referendum by 428,469 to 87,654 in 1902, and reaffirmed this verdict by 447,908 to 128,398 in 1910. The legislature has thus far failed to respond with the desired legislation.

in operation on what may be called a large scale for fifty to eighty years. With the aid of Direct Legislation as a result of its moral influence as well as by its direct application, Switzerland has, *wherever she has applied it,* rid herself of the misrule and exploitation which were previously rampant, as they had been for centuries, in all but the minute but ultra-democratic cantons.* Thanks to sound democratic idealism supported by suitable machinery for its expression she has now come to be an admirably governed country.

Mr. James Bryce, the present English ambassador to the United States, declared to a Cambridge audience in 1904 that Switzerland is the most successful democracy that the world has ever seen.

Further expert testimony to what is generally known and admitted by the well-informed and disinterested is hardly needed, but the New International Encyclopedia in its article on Switzerland, expresses it so naïvely that it may be worth citing. After a lengthy account of the civil wars and political turmoil in the early part of the nineteenth century, it disposes of the rest of the century with the single remark that "the history of Switzerland for the past quarter of a century has been very uneventful, though marked by a steady material, intellectual and political growth."

All this does not mean that Switzerland is an unalloyed paradise. Some of the great human problems seem as far from solution in Switzerland as elsewhere. It does mean that the government promptly reflects public sentiment and at the same time is free

*It is to these little cantons, including less than ten percent. of the area, and less than seven percent. of the population of the present whole country, that Switzerland owes her otherwise quite undeserved reputation for century-old free political institutions.

from violent fluctuations of policy. It means that the government is administered efficiently, and in the interest of the public good. It means that Switzerland, with a form of government modelled largely upon our own, by a modification which might have been suggested by our Declaration of Independence, has secured good government in a democratic republic.

Old-fashioned Methods Survive in One Canton

The excellent results in Switzerland are to be seen not only in her federal affairs but also in the affairs of an overwhelming majority of her cantons. We must not, however overlook Canton Fribourg, the only one of the twenty-two Swiss cantons as yet unable to equip herself with the Initiative and Referendum. She has still the unperfected or "pure" representative system characteristic of our American states and cities and of the old times in the rest of Switzerland. This brings with it, there as here, boss-rule and all that boss-rule implies. The legislative body is nominated by the boss, elected by the people and managed by the boss. Prominent citizens are skillfully kept in line by a share in the plunder for themselves, or for their churches or philanthropies, or by fear of loss of favor with the two chief banks, both creatures of the boss. There is bribery, extravagance, subordination of the general interest to private business, the heaviest per capita cantonal debt in Switzerland, and the public apathy which naturally follows widespread hopelessness. The agitation for the Initiative and Referendum is still kept up by Fribourg patriots as their only hope, but all orderly

means of success are in the control of the boss who, of course, fights them and will fight them for his political life.*

Initiative and Referendum Most Developed in Important Centers

As a contrast to Fribourg, it should be observed that the chief cantons of Switzerland, Berne and Zurich, the former a farming, the latter a manufacturing canton, both far in the lead of their neighbors in population and importance, are among the cantons having the Initiative and Referendum in their most radical and readily workable form. Zurich is clearly the most advanced of the cantons in this respect, and Berne is surpassed, and at that only slightly, by few besides Zurich.

In short, where the Initiative and Referendum are most readily set in motion, there have developed clean government and leadership in civic and industrial growth. In the only canton where there is neither the Initiative and Referendum nor pure democracy, there is misrule and political apathy of the familiar American type.

Switzerland an Adequate Precedent for American States and Cities

The Swiss success under perfected representative government may reasonably be expected to be repeated in this country, for the strength of the system lies in giving common human nature a fair chance to

*This bit of evidence from Fribourg is drawn from an article entitled "The Only Political Boss in Switzerland" by George Judson King, Secretary of the Ohio Direct Legislation League, in the Twentieth Century Magazine for July, 1910. The article is based on recent personal observations in Canton Fribourg.

do itself justice. Human nature in Switzerland is very much like that elsewhere. That it is like that in this country is to be seen from the fact that representative government without direct popular control results in demoralization and bad government there just as it does here, and in just the same way there as it does here.

It is sometimes suggested, however, that little Switzerland, good as her results are conceded to be, is not an adequate precedent for an immense nation like the United States. But a small nation may exemplify a principle essential to the success of a large nation. An ocean liner must obey the laws of steam-engineering as well as a tug boat. A sound fundamental principle holds regardless of the scale of the enterprise. That a self-governing people must have effective control over the laws under which they live would seem to be a principle of this kind. Details may require adjustment, but the principle will hold. But all that aside, the important comparison is not so much with our nation as with our cities and states. Switzerland, unhomogeneous in population, pre-eminently a manufacturing nation, larger than Massachusetts, Rhode Island and Connecticut combined; with a population slightly larger than that of Massachusetts is plainly an excellent precedent for the adoption of Direct Legislation by individual American cities and states.

Moreover there may never be need for a federal Initiative and Referendum system for this country. With the rings once permanently ousted from our cities and states, the federal government should automatically run clear. For the rings that do the plundering at Washington could manifestly not long survive without their intrenchments in the cities and states. At any rate,

it is obviously correct tactics now to go right ahead for the Initiative and Referendum in states and cities. Our only disappointments with it, judging by experience elsewhere, are likely to arise from excessive restrictions which the legislatures may impose upon it.

Questions for Americans to Answer

Americans with the traditions of the town meeting, with the inspiration of the Massachusetts and Virginia State Constitutions, should take especially kindly to this new and long step toward the realization of their ancient ideals.

The real questions for us in this country to answer are:

1. Are we *now* as fit for this forward step as the Swiss *were* when they were putting the system in operation *thirty to fifty years ago?*

2. Is not even a complicated law, properly explained and vouched for, as suitable a thing for a popular vote as a choice between complicated candidates whose actions no one can forsee?

3. Is not an occasional vote on an ordinary law a natural and reasonable addition to our time-honored system of popular votes in State constitutions and their amendments?

4. Is it not worth while to disentangle measures from men and submit to popular vote definite and distinct propositions instead of mixtures of candidates, parties and platforms?

Encouragement from Oregon

To ask these questions in America is to answer them in the affirmative. All parts of the country are coming

to see the point. Oregon, nearly half as large again as all New England combined, is setting us a most encouraging example.

Seven years ago she adopted Direct Legislation. She was then deep in political corruption. Thanks to the Initiative, and measures secured with it which legislatures had refused to pass, she has made great progress toward better government and the house-cleaning is going right on.*

The outcries of the local plunderers show that they feel their power slipping away. Their intrigues for the destruction of the Initiative and the Referendum show that they know the cause.

What the Fathers Were Trying to Do

We shall be interested to see how Direct Legislation fits in with the ideas of our wonderfully far-sighted and successful constitution framers. It will be worth while to quote a few passages from the Constitution of the Commonwealth of Massachusetts—the oldest of their works—the spirit of which is no stranger in other parts of the country. Articles V, VII and VIII of that honored document will give the ideas of the fathers on the relation of the people to their representatives.

"Article V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority,

*See the speech of Senator Bourne of Oregon in the U. S. Senate, May 5, 1910 (obtainable from the Massachusetts Direct Legislation League), for an extended description of this remarkable work. Senator Bourne, a Republican, and by birth a Massachusetts man, and his colleague, Senator Chamberlain, a Democrat, born in Mississippi, are alike active advocates of the Initiative and Referendum, after observing its eight years of operation in their home state.

whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them."

"Article VII. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people, and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter or totally change the same, when their protection, safety, prosperity, and happiness require it."

"Article VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments."

Lack of Steam and Electricity the Obstacle to Direct Legislation at the Outset

On reading these sturdy New England doctrines one must conclude that the only reason why the fathers did not then and there establish Direct Legislation for the State and for cities as they might develop, was that it was at that time physically impossible. Mechanical invention had not advanced far enough to permit it even if they had conceived the idea. We must not forget that their facilities for disseminating information and gathering returns were little superior to those of Julius Cæsar. They knew no more of railways than Cæsar did, such highways as they had were not so good

as Cæsar's. But they resolutely did all that was practicable under the mechanical conditions of their time. They provided an obligatory referendum on the adoption and amendment of the Constitution of the Commonwealth even though it might and did take weeks to put the matter to vote and get the returns. And it is clear that nothing was farther from their minds than that the will of representatives should prevail over the will of the people, some modern officeholders to the contrary notwithstanding.

Now that Direct Legislation, as a working institution on a large scale, has become a possibility through the introduction of the modern means of spreading news and ideas by the telegraph, high-speed printing press, and the railway, we can proceed from the point where the fathers were forced to stop and can vindicate more clearly than ever the soundness of their noble idealism.

An Attractive Outlook

In closing it may be said that the Initiative and Referendum appeal particularly to progressive Americans in whom still lives the spirit of the liberty-loving men who founded this nation. Such citizens readily comprehend the necessity of controlling the important RESULTS, and of not limiting themselves to toying at government while privilege does the governing. They take great satisfaction, moreover, in a remedial measure so thoroughly in harmony with the old ideals and institutions. It involves, after all, only a bit of additional machinery and depends for its success only upon our fitness for self-government.

Of course Direct Legislation is only a piece of mechanism. It will not suffice merely to set it up. It

must be made to work promptly and with vigor when required. This will take real citizens. Oregon shows that such citizens still exist—some of them of New England or other American stock, some of them born in old-world monarchies.

The success in Switzerland; the steady progress and gratifying results in America; the strenuous opposition by favorites or managers of political machines; the misrepresentations by professional lobbyists and conspicuous officeholders, echoed in *ex parte* "editorials," all indicate that the Initiative and Referendum are measures justly destined to receive an increasing amount of public attention and regard.

With the Initiative and Referendum in force, we shall be equipped as never before to resist enemies from within; enemies far more dangerous to our freedom than any foreign foe.

The Initiative and Referendum may well be the means of instituting on a permanent basis the responsible kind of representative government which our fathers lived and died to secure.

The Initiative and the Referendum may well prove to be the salvation of the momentous experiment led by Jefferson, Hancock, Franklin, the Adamses and Washington.

Submitted by,

ROBERT L. OWEN,
WILLIAM ALLEN WHITE,
FREDERIC C. HOWE,
LEWIS J. JOHNSON.

ARGUMENT AGAINST THE INITIATIVE AND REFERENDUM

To the Members of the National Economic League:

One great contribution of the nineteenth century in the field of government was the representative system. Not that this originated in the nineteenth century, but rather that it attained its highest development and most extensive adoption during that century. As is well known, the theory of this kind of government, in short, is that representatives of the voters at large are chosen by districts, and that these representatives reflect the wishes and desires of their constituents in our nation and in our States. It is manifestly a physical impossibility to provide for direct legislation of the people, and accordingly some representative system must be devised. The legislature thus made up of a limited number of persons—the nation, or the State, in miniature, as it were—will, if a truly representative body, do the very things which those whom they represent would themselves do if they were to act directly.

The legislative procedure, put briefly, is essentialy as follows: Bills are introduced and referred to appropriate committees; these committees take such bills under consideration, revise and amend or re-write, as may be needed, or even substitute an entirely different bill, and its final conclusions are reported to the House at large. In the House all the members are at liberty

to discuss the measure, to support or oppose it, or to suggest amendments, and the bill is finally passed. In all our States, as in our nation, our legislative bodies consist of two Houses. This bill, after passing one house, is sent to the other where it goes through precisely the same stages as in the first. In the second House there is an opportunity still further to perfect a measure, and if accepted it goes to the governor or president, as may be, for his approval. He in turn may perceive some defect in the measure, whereupon he may return it to the legislature for reconsideration. This procedure, with its numerous safeguards, would seem to insure as satisfactory legislation as can ordinarily be expected.

In case of the referendum, statutes which have been enacted in this manner are now further subjected to popular review. It is scarcely conceivable that the voters at large can, in the first place, possess the information required for a proper understanding of the merits of the measure to the same degree that was true of the legislators, and secondly they will lack the advantage of the legislative procedure outlined above. To be sure, when laws are submitted to the referendum, a pamphlet may be issued, as in Oregon, with a statement of the arguments for and against the various measures, but these are at best brief and inadequate, and furthermore it is certainly open to question whether many of the voters will give careful and deliberate thought to the merits of the statutes and the value of the arguments.

As to the initiative the conditions are far less satisfactory. In the States where the initiative exists a petition signed usually by five to eight per cent. of the

legal voters of the State ordinarily suffices to cause to be submitted to all the voters any measure which these petitioners propose. This may have been drawn up by a single individual, by several individuals, by a club, by a society, by an organization, or in any other way; but even under the most favorable circumstances it can hardly have had the same care and scrutiny given it that is possible through usual legislative procedure, in the introduction, discussion and passing of bills. No matter how crude, no matter how inconsistent, no matter how contradictory the provision of an initiative measure may be, the bill, exactly as framed, must be submitted to the entire electorate.

The champions of the Initiative and Referendum urge, as one of the strong arguments in favor of the introduction of these changes in our political practices, that the representative system has broken down; that unfit men, unrepresentative men, corrupt men, are chosen as members of our legislative bodies; that they are not truly representative of their constituents, and of the wishes and desires of their constituents, and in order to ensure laws which the voters themselves want and which their representatives do not, or will not, enact, either because of inefficiency or because they are controlled by corporate or other interests, the government must be brought nearer home to the people by means of direct legislation. If the charge against legislators is true, is the remedy the one suggested? Is it not rather that we should correct the abuse, if such, in our representative system as it now operates, instead of trying to supplement it by the method proposed? Is it not really much easier to choose between men than it is to choose between measures, or to pass judgment upon

measures? It is a comparatively simple matter to make up one's mind as to whether a man is honest, faithful, efficient, patriotic, unselfish; it is a very difficult matter to decide in regard to the merits of a large part of legislative acts, aside from the fact that regarding the merits of most statutes one cannot be expected to possess accurate and reliable information, while many others are of little or no general interest, so that it is absurd to submit them to popular decision. If, moreover, as alleged, corporate and corrupt influences are now able to determine the choice of representatives, who are elected by the direct vote of the people, is there any reason to suppose that these same influences will be any less able, or less likely, to determine the acceptance, or rejection, of legislative measures by that same direct vote through the referendum?

The advocates of the introduction of the Initiative and Referendum in the United States rely very largely, for arguments and illustrations in support of their position, on the experience of Switzerland with these institutions, but they fail to bear in mind certain facts and conditions that are strikingly different in Switzerland from those in the United States. In the first place, so far as the ratification of constitutions and of constitutional amendments is concerned, this is nothing new in our experience, but, on the other hand, is of practically universal application. In regard to laws, however, attention should be called to certain vital considerations. The use of the referendum in Swiss national legislation should be compared with a like national and not State use in our own country, because, speaking broadly, the fields of legislation in the two federal systems are rea-

sonably similar; but no one suggests reference of Acts of Congress to the voters of the entire country. Consider for a moment the impracticability, or perhaps one might better say, the folly and absurdity, of asking voters of our forty-eight States to express their judgment on a tariff measure, or a banking law, or a bill dealing with interstate commerce, or a measure for the regulation of corporations, or any one of scores of other subjects within the scope of congressional legislation. A national initiative would be even less defensible, and yet if State initiative and referendum are desirable there is no logical reason why they should not be extended to national affairs; but as such extension is not seriously proposed by any one, it is unnecessary to give it further attention.

With regard, however, to State laws, the Swiss analogy is still more lacking in force. Leaving aside the Swiss cantons having the Landesgemeinde, and confining our attention to those possessing legislative institutions, it is to be noted that these cantons have only a single legislative body; and furthermore, there is no executive veto and no courts to pass upon the constitutionality of cantonal legislation. These cantons, therefore, and they constitute the bulk of the Swiss cantons, lack the safeguards possessed by our States, and it is reasonable that there should be devised some means whereby this single legislative body shall not exercise unrestricted power. The referendum is a natural and reasonable provision under such circumstances; but in our States such protection against what would otherwise be omnipotent legislators is not needed. The proper comparison of the Swiss cantons is not with our States but with our cities

that have recently, in considerable numbers, introduced the commission form of municipal government. In these there is ordinarily a board of five elected representatives who combine the usual powers of a city council with those of the heads of administrative departments, and, just as in the case of the Swiss cantons, it is well to have a check provided, so too in cities under government by commission, the referendum is a reasonable provision for the protection of the rights and privileges of the people; but, as already stated, there is no such need of these safeguards in the case of our State governments as there is need of them in the Swiss cantons and in commission-governed cities.

Another supposed analogy in the support of the referendum is the New England town meeting. Here again the comparison does not hold. The New England town meeting is a legislature in itself for town affairs —a legislature of all the voters instead of a legislature of representatives. In the town meeting motions are offered, discussed, very likely amended, and are finally passed or rejected, as the case may be, only after an opportunity has been had for debate and the presentation of arguments for and against the proposition under consideration. Again, the New England town meeting in its characteristics still further approaches the methods of a true legislative body in the fact that quite frequently matters of particular importance are referred to a special committee which takes such matters into consideration and makes a subsequent report to the town meeting, with a statement of facts and opinions, and with recommendations, upon which the town meeting then acts as a legislative house would act upon the report of one of its

committees. This procedure is true as applying to subjects of various kinds, but particularly to appropriations of money. In a great many towns a committee is appointed well in advance of the annual town meeting with the duty of investigating the needs of the various town departments for the ensuing year; numerous sittings of this committee are held; representatives of the town departments meet it to present their case, and the committee finally makes a printed report which is put in the hands of every voter before the town meeting so that each voter knows how much is recommended for each department of the town government, the sum-total of the appropriation suggested, and the probable tax rate if such appropriations are made. Of course it still rests with the voters as to how much shall actually be appropriated; but the point is that the way has been cleared for him by the procedure thus outlined. The New England town meeting, therefore, is essentially a legislative body with legislative methods of procedure, and is not an argument of any appreciable weight for the referendum.

We are in great danger in our nation and in our States of failing to distinguish between constitutions and statute law. A constitution, speaking generally, ought properly to deal with two main kinds of provisions—first, those dealing with the form and organization of the government, with the qualifications and terms of office of officials, with the qualification of electors; and secondly, with the powers to be exercised by the various departments of the government. The first can be, and must be, specific; the second should be broad and general in phraseology. The Eighth Section of Article One of

the Constitution of the United States is an excellent illustration of this idea; the eighteen paragraphs in that Section are phrased in such broad language that, together with similar broad phraseology of other parts of the Constitution, a country of only a fraction of the present area of the United States, with a population of less than four millions, chiefly settled in a narrow strip along the Atlantic coast, with few and simple interests, could adapt itself to the steady territorial growth of our country, to its rapid increase in population, to the development of unforseen, complex and enormous industrial and commercial interests, to new political and social problems, and to the vastly increased importance of foreign relations;—all this was possible without changing a word in the original document. This is one of numerous illustrations that might be cited as indicating the sort of document a constitution should be. Under it, it will be possible to enact, at any time and under any conditions whatever, laws which may be demanded by the immediate circumstances, or, if it proves inadequate to meet changed conditions, it may be amended so as to give to the legislative department any needed new authority. Laws, on the other hand, must deal to a large extent with single topics, with individual conditions, or perhaps with a transitory situation; their enactment is, and should be, subject to easy and ready subsequent amendment or repeal. Unfortunately there has of late been an increasing tendency in some of our States to incorporate in their consitution matters which would much better be left to legislation, for the incorporation of such subjects in constitutions presents the two-fold objection of losing sight of the marked distinction be-

tween constitutions and laws, and of rendering it much more difficult to amend or repeal such provisions than would be the case if, as they should be, they were reserved for legislative action.

Another error into which the advocates of the Initiative and Referendum are inclined to fall is this: they urge the introduction of these methods in the United States by reason of their successful operation in Switzerland. It should, however, be noted at the start that there is by no means universal assent, even in Switzerland, to the assertion that these are successful there, or at least that they are not open to considerable criticism, and this is particularly true of the initiative; but even granting, for the sake of the argument, that all that is claimed for them in Switzerland is true, nevertheless it is equally to be remembered as one of the universal teachings of history that a transplanted institution may oftener than not fail to produce as good results in a foreign land as it does in the country of its origin. A striking illustration of this is seen in the cabinet system of government whose success in England has in the main been remarkably noteworthy, but whose failure in practically all the continental European countries where it has been tried is equally evident. Again, England successfully carries on its government with an unwritten constitution, but no one would seriously advise any other country attempting a similar experiment. The unwritten constitution and cabinet system of government are of English growth and development; they have been tested out through years and centuries of trial and experience; they work well in England, but that is very little reason for arguing that they would work well else-

where as adopted, transplanted institutions. So, too, the Swiss initiative and referendum must be estimated in the light of peculiar Swiss conditions; however great their success there, they would not necessarily be equally successful, or perhaps not successful at all, under other conditions, especially when those other conditions are not only of a different nature in themselves but on a magnitude enormously out of proportion to the small and simple scale of Swiss affairs.

At the election to be held in South Dakota in November, 1912, there will be submitted to the voters a constitutional amendment and three initiative measures; one of these is: "An Act, to provide for regulation of political party transactions; for the purpose of determining organic provisions and definitions of terms, party enrollment, party organization, independent and representative proposals of candidates for party nomination, to elective offices, official primary ballot, conduct of primary elections, official party endorsement of U. S. Senators and appointive government positions other than postmasters, postmaster primary, party recall, official State publicity, pamphlet, violations, penalties and contests." This proposed act occupies more than thirty large-sized closely printed pages. One would need at least two or three hours merely to read it through; to read it understandingly, to study it with sufficient care to enable one to pass upon the merits of its numerous and technical provisions would require not hours, but days. It calls for a large degree of credulity to deceive oneself into believing that any considerable percentage of the voters will give to this measure the necessary amount of study and thought, or furthermore, that would be qualified

even then for the exercise of a reasonable judgment on the merits of the bill. This is just the sort of a bill which we may expect will be proposed through the initiative, and it must be accepted or rejected as a whole, with or without, and most likely without, any decent consideration; in any event without the opportunity to provide for that consistency and effectiveness which might be secured by means of ordinary legislative procedure.

At the State election in South Dakota, November, 1910, the referendum was applied to six laws. Three of these measures very well illustrate the kinds of legislation which may, and which may not, properly be submitted for popular acceptance or disapproval. The first was a local option measure regulating the sale of intoxicating liquors. This is a simple question, easily admitting of a "yes" or "no" answer; and furthermore it possesses the merit of being so free from technicalities or complexities that every person qualified to exercise the suffrage should be capable of forming an opinion in regard to it. In other words, it is somewhat after the nature of a constitutional provision dealing with a broad general principle whose determination may wisely be left to the people at large.

Another of these six legislative acts provided for the equipment of locomotive engines of passenger trains with electric headlights of not less than 1500 candle power. This, too, is a simple question, requiring merely "yes" or "no" for an answer, but here the comparison with the preceding act ceases. It is a highly technical proposition about which not one person in a hundred—perhaps not one in a thousand—could know anything.

The great mass of the voters could not be expected to know whether the proper candle power of such headlights was 1000, or 1500, or 15,000. This is a question requiring expert knowledge, and the members of the legislature were in a position to seek and secure that knowledge to guide them in determining a suitable candle power. Evidently this was a law whose wisdom could not reasonably be passed upon by the general body of voters of the State.

A third statute dealt with the organization, maintenance, equipment and regulation of the state militia—a complicated act which differs from both of those just mentioned in the fact that it is complex, detailed, and technical; and moreover, like the second of the laws just mentioned, relates to a matter upon which very few voters could have an opinion of any value.

In Oregon, the same year, 1910, the voters had presented to them thirty-two constitutional and legislative propositions of many varieties. A woman suffrage amendment was a legitimate subject for state-wide expressions of opinion, and so too were certain other propositions among the thirty-two, but it is somewhat difficult to understand why the proposed increase of $1000 in the salary of a district judge should be passed upon by the voters of the entire State, the overwhelming majority of whom could have known nothing of the judge or his duties; and besides, this suggested increase of $1000 was no concern of the voters anywhere in the State except those of Baker County, for Baker County alone was to pay the additional $1000.

Several statutes dealt with the creation of counties, or the changing of county boundaries. These are ques-

tions about which those only of the counties concerned could possibly have had sufficient information to warrant an expression of opinion, while voters in remote parts of the State would naturally be ignorant of local conditions and of reasons for or against the suggested changes.

Other pertinent examples might be instanced if space permitted, but only one more will here be cited. This was "for amendment to the Constitution of the State of Oregon, providing for verdict by three-fourths of jury in civil cases; authorizing grand juries to be summoned separate from the trial juries; permitting change of judicial system by statute; prohibiting re-trial where any evidence to support verdict; providing for affirmance of judgment on appeal notwithstanding error committed in lower courts; directing Supreme Court to enter such judgment as should have been entered in lower court; fixing terms of Supreme Court; providing judges of all courts be elected for six years, and increasing jurisdiction of Supreme Court." It would be a bold man who would maintain that anything more than an extremely small percentage of the voters of the State could be qualified to express an intelligent opinion upon some, or perhaps any, of the legal questions and theories involved in this proposed amendment.

It is probably safe to assert that most persons would agree that if we were obliged to choose absolutely between representative government at its best, protected by the usual methods of legislative procedure, on the one hand, and, on the other, direct government through the Initiative and Referendum, representative government is not only more practicable, but also more efficient.

If, then, the ideal is more easily attainable through the representative than through the direct form of government, it would seem to be the part of wisdom to seek to perfect this system which is the growth and development of generations and centuries of experience, rather than to introduce a procedure so lacking in all that conduces to wise, deliberate, well-considered, rational legislation. The world's political institutions that have endured and justified their permanence are institutions marked by slow historical growth and natural development. The records of the past are filled with countless beautiful theories of government, some of them enthusiastically and quite largely accepted for the time being, but they soon withered and died, lacking roots running back into the historical past.

We are much inclined, in this modern hurrying age, to place too great reliance upon the machinery rather than upon the substance of government, and to assume an ability to reform human nature and to bring to pass the millenium by statutory enactment. Our political institutions are not perfect and doubtless never will be perfect; but they can be improved; and improvement lies not in the direction of radical innovations but in such judicious modifications of existing practices and conditions as shall continue the historical development of these institutions in the past by means of a natural, logical and consistent development in the future.

Submitted by

George Sutherland,
Emmet O'Neal,
Frederick P. Fish,
Charles F. A. Currier.

REBUTTAL FOR THE AFFIRMATIVE

By PROFESSOR LEWIS J. JOHNSON

The argument of the negative does not touch the real point at issue.

The sole contention of the advocates of the Initiative and Referendum is that the sovereign people, in order effectively to assert and maintain their sovereignty, must equip themselves with proper means for direct control of *results* in law-making.

Our opponents' failure to grasp this fact is shown by their assertion that we urge the adoption of the Initiative and Referendum *"by reason of* (italics ours) their successful operation in Switzerland."

The results in Switzerland do exemplify the soundness of our views, and may have suggested them to some but we Americans may reasonably hope that, even if Switzerland had not done what she has, we should ourselves have discovered by this time the importance of establishing the ordinary powers of principal over agent in our relations to our agents, the legislators. This is plainly no "new theory of government" but merely an attempt, by correcting a radical defect in its operating machinery, to enable our old theory actually to work. Our contention is no more dependent for its validity on local conditions in Switzerland, federal or cantonal, than is the familiar principle that the master must have direct power to overrule the acts of his servant as well as to select him.

There can be no argument against the Initiative and Referendum that is not an argument against popular sovereignty. For to say that a sovereign people shall not adopt such measures as will give them real supremacy over legislaton is obviously to contend against the sovereignty itself. An argument openly and directly to this effect might have been ventured a century and a half ago, but it will hardly be attempted in this country today. Our opponents, of course, make no such attempt.

Let us examine *seriatim* what they do offer.

They rightly have words of approval for the representative system of government. We cordially join with them in insisting that the representative system is a convenience, a labor-saving device, which alone makes democracy on a large scale practicable. Nobody, so far as we know, has anything against the representative system — except in so far as it ceases to be representative and becomes perverted to private ends. We hold, moreover, that if the representatives are to be of the greatest possible service to their masters, the people, the representatives should be so chosen, organized and safeguarded as to save their masters, the people, to the utmost from the bother of intervention. We realize that the people have enough to do without unnecessarily stepping in to do the work they have secured representatives to do for them. We want popular control of results but we want to minimize the burden of exercising it. Hence, we who advocate the Initiative and Referendum, go further than our opponents in *constructive* regard for the representative system. We are generally advocates of many or all such measures as democratically planned direct nominations — the short ballot,

the recall, proportional representation, the preferential ballot, means of publicity adequate to offset the subsidized portion of the press, popular election of U. S. senators, commission government for cities, equal suffrage, municipal home rule, rational tax laws, merit system and other measures for improving and safeguarding the representative system.

We find, however, that partisans of "pure" representative government generally oppose measures of this type almost as earnestly as they do the supreme measure — the Initiative and Referendum. Hence we devote our efforts to the Initiative and Referendum as substantially no harder to get than any of the rest and as the key to the door to all the rest.

We really want representative government; we want it efficient; we want it perfected, and we want it to be really representative. We are persuaded that the Initiative and Referendum are necessary to get it, and keep it. Our opponents keep up the cry with which we have been mocked for decades — that we must elect better representatives — a thing, as a rule, clearly impossible while the present political machinery remains intact. Our opponents, by offering no practical alternative to our proposal, force us to think that whether they are aware of it themselves or not, they do not want representative government after all, but delegated government, a mere elective oligarchy, the elective feature of which, while savoring of popular control, does not in practice bring it and for that reason only is cheerfully endured. If this diagnosis is correct, the answer to their position is the argument for popular sovereignty which we are sure we need not undertake at this date in this country.

Our opponents next give us an account of the methods of legislative bodies, including town meetings. Their account is hardly as informing, however, as it might be made by those familiar with what actually goes on. We have nothing to say against the statements made. They are what are given in the school-books generally, and are frequently believed to tell the whole story. We do not deny that legislative methods are in use which are supposed to protect the public interest. We have no quarrel with them in so far as they really do it. But in so far as they serve only to divide responsibility, protect the recreant from detection and rob the deserving of due credit, we make bold to say that we want something better.

But what has all this to do with the question? Does the opponents' exposition of a few familiar methods of legislative procedure show that the people must continue to be ruled by their agents?

We are next gravely warned that "it is certainly open to question whether many voters will give careful and deliberate thought to the merits of the statutes and the value of the arguments" when measures are up for referendum.

We beg to reply that it would have been more convincing if, instead of offering us this platitude, our opponents had cited one specific instance of harm actually coming from this source, or had offered one specific instance of one legislative body whose work is not at least equally "open to question." The fact is, our opponents do not seem to realize the actual simplicity of the voters' task in a properly conducted referendum. Nothing could well be more slip-shod than our inherited

and, for the most part, still existing methods — or rather lack of them — for informing voters on projected constitutional amendments. Yet, even under these bad conditions, the results have led to no effort to abolish the submission of such legislation to the people. Far less is the risk under modern systems of Initiative and Referendum, with the greatly improved publicity methods which are an essential part of the whole plan.

Moreover, we would remind our opponents that there are some things "open to question" — not to say condemnation — in things as they are, and the change we suggest might well net us a very substantial gain even if the particular dread now under discussion were better founded in fact or in reason. Mind, we do not deny that voters, like legislators, will sometimes vote carelessly. But we suppose they do at present, and always will in anything like popular government. We hold, however, that the prospect of actual practical harm from it need not deter us from trusting the people instead of the politicians with final control of the people's business. We do not renounce the railway train for the stage-coach because trains may run off the track, nor gas lighting for the tallow dip because some might, and even do, blow out the gas.

A good deal of the rest of our opponents' position is beside the mark because it makes the gratuitous assumption that initiative measures necessarily go to the people without previous submission to the legislature. Our opponents seem unaware that the present-day tendency (witness Oklahoma, Wisconsin, Ohio, Massachusetts and New Hampshire) is all the other way. That Oregon in her splendid pioneer work preferred to do

otherwise, and has not yet changed, is no reason why the people of other states can not and should not get all the help and good they can from their representatives. It is no argument against a sound project to tilt at minor and unessential defects, especially defects already detected by its friends and by them overcome.

It is a curious frame of mind in our opponents, which assumes danger to the public from bills which are to go before the whole people, accompanied, it may be, by competing measures drawn up by the legislature subject to the searching scrutiny of the whole representative body, the whole press, and the whole legal profession, with weeks for consideration, with state pamphlets, in which blunders and jokers can be exposed, mailed at public expense to every voter in the state. Moreover, there is a new incentive for giving such a bill close attention in the very fact that it appears in what is known to be its final form. It must stand or fall as it is presented. This of course makes a far greater inducement for its framers to do their work right than can possibly exist now with the project of amendment and counter amendment and the certainty that no one can ever be held effectively responsible for the resulting bill. There is now a special temptation to bad legislation in the fact that even if somebody should be refused a renomination or re-election on account of a bad measure, selfish interests can continue to profit by the bad measure until a boss or machine-ridden body can be induced to repeal it and substitute whatever may next suit their convenience — if indeed the courts permit its repeal at all.

No; instead of less well-drawn laws as a result of the new system it is reasonable to expect the contrary — that initiative measures will be clearer, more carefully drawn, freer from riders, errors, and jokers than much of what we get from our legislative bodies now — to the great relief of our overworked courts, and of the public.

It is suggested that it is easier to choose between men than between measures, and that, therefore, a self-governing people should forego voting on measures. Among the fallacies in this suggestion may be mentioned:

1. It assumes that men can properly be judged otherwise than by *measures* they favor.

2. It assumes that a man, reasonably acceptable before election, will present the same front after election.

3. It ignores that a law, unlike many men, means only what it says, and will say the same thing after election as before.

4. It ignores that a vote for a man is often a choice from among groups of self-seekers none of whom we want, but one of whom we *must* elect — an unreasonable task, naturally leading to disgust and apathy among those who should be our most useful voters.

5. It ignores that a vote on laws is never a forced choice between unacceptable measures one of which we *must* pass. If no one of them is good they can all be defeated. If some are good, such can be passed. Here we have a task worthy an intelligent voter's care.

6. It ignores that a law would never come before the voters without the backing of men whose character and affiliations as well as the full text of the measure would always be in evidence. Hence such voters as can

judge only men would be as well off as before, and such as can judge both men and measures, better off than before.

7. It ignores that the men in such cases would not be restricted to those who have qualified with the machine, but would frequently be those whom the machine could not manage and would have the deserved confidence of the public.

With regard to the fear that corruption might lead the people to betray themselves in a vote on measures, as it now leads the people to accept corrupt representatives, be it noted once for all that corrupting interests in politics do not favor the Initiative and Referendum. They vigorously oppose them. Whatever else may be said of the bosses and their clients, they may be assumed to know their own interests!

Our opponents do not feel moved by our references to Switzerland for various fine-spun reasons. Some of these reasons are based upon the assumption that there are certain laws on which the people can never "wisely" be allowed to pass directly. This we deny, unless for some purely physical or emergency reason, and we would by no means shrink from extending the principle to federal legislation, if necessary. If cleaning up the cities and states will not so purge the federal government as to render indirect popular control adequate for federal affairs, which some of us believe it would, none of us would hesitate to take such steps as would be needed to prevent public betrayal in national affairs, as well as in other matters. We agree with our opponents in their assertion that direct public control of results in city and state would justify an extension of the principle to the nation. However, we may be pardoned if, in our

faith in the representative system, we do not urge this step until we find by experience that our present plans will not provide us both with the quality of federal representatives and conditions under which to work, such that we shall not have to establish direct popular voting on federal legislation.

And as if we, the voters, were not *supposed* now to pass on federal matters by our votes!

To be sure, it avails us comparatively little. The confusion of parties, measures and candidates is so complete that only rarely can a thoughtful, unselfish voter take much satisfaction in his vote. He has to vote for much he does not favor in order to vote at all. Would not an occasional referendum, disentangling even federal measures of importance from other issues as well as from candidates and parties, refreshingly simplify such a voter's task? And might not the result more readily elude the control of invisible government?

Perhaps, however, federal elections in particular are meant to be mere sham battles for working off the people's civic energy with the minimum risk to privilege. Whether so intended or not this is in the main the way it works out. A change of some sort cannot be far off. It behooves us to give the initiative and referendum a prompt and fair trying out in cities and states. They are likely to be demanded soon for federal matters, and adequate experience with them on the smaller scale would be of priceless value in that event. We can hardly get it too soon.

Let our opponents rest assured, however, we not only do not shrink from real popular supremacy in federal affairs but we wish to exercise it by the neatest effective means.

The Swiss cantons may well lack some of our "safeguards," some of our cumbersome and largely futile checks and balances. Perhaps with the initiative we could put ourselves in the superior condition for popular control (with the Initiative and Referendum as the real checks in place of our largely spurious ones) which our opponents say the Swiss cantons now enjoy and get as good results as they.

But after all, this is not the point. The point is that Switzerland by the application of the methods of direct popular government, so far as she has applied them, has pulled herself out of just the same kind of subservience to special interests as afflicts us in cities, states and nation. No one denies this. It is in the nature of things that people as a whole can keep their interests safer by having power to control them directly, than they can by turning them over irrevocably to agents. Agents can enrich themselves by swindling, deceiving or neglecting their principals. Principals cannot gain any advantage by either swindling or deceiving or neglecting themselves.

Our opponents object to our citing town-meeting experience in our support, on account of certain methods of procedure now used by town meetings. They clearly overlook the similar methods of procedure, which are the usual adjuncts to the best modern Initiative and Referendum practice. It is proposed merely to put the public in control of their own business, and of course there are suitable methods to minimize the difficulty and maximize the certainty of this work being done intelligently. Moreover we think, that, in avoiding the town-meeting feature of a vote taken in the heat of debate, we make a great gain over the town-meeting. There is

some gain too in the lack of necessity to be present at a given moment of the day in order to vote on a measure.

But our opponents do not deny that the town-meeting is an old and on the whole a successful example of people voting directly on measures instead of leaving them wholly to representatives or delegates, and that is all we ever claimed for it.

Concern about the distinction between statute law and constitutional law is sometimes expressed by academic objectors to the Initiative and Referendum. One would suppose from what they say that the people must go on indefinitely in their present plight — in the train of the machines and special interests — rather than blur the distinction between constitutional and statute law! We do not conceive the prime purpose of government to be to maintain the distinction between constitutional and statute law, but rather "to secure the safety, prosperity and happiness of the people" and, if necessary, to attain the latter we admit that we would cheerfully sacrifice the former.

But for the peace of mind of these objectors let us hasten to inform them that distinctions between constitutional and statute law just as great as the existing ones can be maintained under an Initiative and Referendum system, and such is the desire and practice today — with no one objecting — in the more recent states to fall into line.

Our opponents should see that the present tendency to clog state constitutions with masses of statutory matter is evidence of the unsatisfactoriness of our present legislatures and of the desire to curb representative

bodies and shield them from temptation, rather than an evidence of perversity on the part of the masses.

A proper system of Initiative and Referendum is, directly and indirectly, the best way to get the accurate and thorough distinction between statutory and constitutional legislation, and many of us who favor the Initiative and Referendum, and probably all of us, would be glad to join our academic friends in an effort to put this right.

Our opponents state "that there is by no means universal assent even in Switzerland, to the assertion that these (the Initiative and Referendum) are successful there, or at least that they are not open to considerable criticism, and this is particularly true of the initiative." Very likely. We are well aware of it. The same may be said of the Ten Commandments, the Declaration of Independence, the abolition of divine right of kings, our American judiciary or the New England town meeting. Anything that makes for better government or better human conditions is sure to be alleged by someone to be a failure, even by certain of the more intelligent and better favored. Neither is it important that they are said to be "open to criticism." We need expect no institution to be otherwise. The important thing is, does any responsible public-spirited body or person allege that things have not been vastly improved in Switzerland by their introduction, or that there is any serious or even faint likelihood of a renunciation of popular sovereignty in Switzerland? Of course not. Of course, also, no one pretends that the end of evolution in Switzerland has yet been reached. The important thing is that not only is there no sign of retrogression among Swiss patriots,

but the contrary. Their troubles in the cantons where direct popular control over legislation is most highly developed are due mainly to still imperfect economic freedom. It is not that the people do not use their power as wisely as any of their representatives could, but that the people as well as their representatives, together with the rest of the world are not clear about what to do next.

The curious thing about the alleged unsatisfactoriness or failure of the Initiative in Switzerland is the difficulty in getting a bill of particulars. If it is not used as much as our opponents require for their satisfaction, it is a sign that the people are satisfied with the work of their representatives and all is as it should be. If they use it to pass legislation aimed at any particular race, as they undoubtedly have, that is because the people at the time knew no better, and similar results in a vastly more disastrous degree happen in countries without the Initiative. No case is alleged of the Initiative having worked so as to get a result the people did not desire. Would that as much could be said of American "representative" government!

As for danger from "transplanted" institutions, we would remind our opponents that the Christian religion, the representative system of government, the invention of printing, the English language — not to mention some other things — were not indigenous to our soil, and that though "transplanted" neither we nor our opponents wish to discard them. And, be it remembered, some of them came from small countries and were once applied only on a small scale!

The objection that sometimes laws are submitted to voters that, in the judgment of this, that or the other

critic, ought not to be, weighs little with us as a practical matter because there can be no agreement as to the definition of such laws. If there could be such definition perhaps the public would, for a time at any rate, put them beyond their own reach. Moreover, no harm has been pointed to as the result of the submission of any such law, and finally, if there were or could be, it would not justify a sovereign people denying itself effective sovereignty.

With regard to highly technical laws, like the candle-power law of South Dakota, our opponents forget that the people at large can get as high-grade and as disinterested expert advice as their legislators — especially when that of the latter is largely volunteered by interested parties. People forget that the Initiative and Referendum bring *all* the people into activity. In Maine recently this appeared when a bill giving some special rights involving technical engineering points to a railway corporation passed all the vaunted checks and balances of the legislature and was signed by the governor, only to be held up and killed by the people of the state under the guidance of a private citizen, a civil engineer high in his profession, no doubt better equipped to comprehend and deal with that measure than any of the elected men at Augusta. He saw the harm in the bill, pointed it out in the press, and the people killed the bill.

No; on this score we have more to hope than we have to fear from the Initiative and Referendum. The worst and most irresponsible are now as efficient for their own purposes as they are likely to be; the busy, responsible and unselfish need to be brought into effective action. This is one great gain to be expected.

It is said to be bad for the whole people of the State to vote on local measures. True, but it is no worse than having the whole legislature bothering with such measures. Politicians like to have local measures in legislatures. They are good for trading purposes. But with the Initiative, and probably not otherwise, we can establish home-rule in home affairs and remove such work from both the legislature and other parties not in interest.

The county boundary measures in the 1910 Oregon election are referred to with disapproval. The objector omits to point out that the people not only knew just what to do with them, but did do the very thing to force the legislature to take the responsibility to enact suitable legislation for caring for such cases in the proper way. The people killed all these bills by heavy majorities.

The three-fourths verdict in civil cases, which our opponents regret having come to the voters of Oregon, is provided for in a constitutional amendment submitted to the voters of Ohio by the Constitutional Convention just adjourned. It is a constitutional matter and such measures technical or otherwise, go to the people whether under the new system or under the old. Our opponents here argue against the popular ratification of constitutional amendments as much as against the Initiative and Referendum. Is such a measure less technical and more fit for the action of voters when coming from a constitutional convention than when coming with its advice from a legislature, or with ample warning, in the full light of publicity from a thoroughly identified body of citizens?

That particular amendment is one the people considered of great importance to protect themselves from unjust verdicts by "hung" juries in damage suits against powerful interests. Does any one assert that the people made a mistake?

As to the last two paragraphs of our opponents' report, we beg to plead not guilty to any and all the charges implied therein, and to assert that our opponents therein show once more their failure to grasp the nature, spirit or philosophy of the movement for the Initiative and Referendum. We assert that the Initiative and Referendum is *the* method *par excellence* to rescue the representative system from the disrepute into which even they seem to realize it has fallen; that it is the short simple step in evolution logically suggested by the history of democracy, and with roots running not only "back into the historical past" but also, and better yet, into common sense and human nature. The introduction of the Initiative and Referendum is no more violent a change and one no more hostile to the representative system than the provision of a governor in the case of a stationary engine. That "roots in a historical past" are neither sufficient nor essential is shown by the fact that nothing was much better provided with such roots than chattel slavery or monarchy, and nothing less so than human liberty. Yet no one can deny that such roots as we have "in the historic past" could be grafted with scions which would materially improve the fruit over the wild fruit of that past.

We observe not one iota of definite concrete suggestion, however, from our opponents as to how *they* would improve the representative system. And we submit that

if they were to think up anything that would really curb the machines and the interests behind them, and wished to accomplish it without delay to the point of explosion or revolution, they would be driven to join with us in the campaign for the Initiative as the most rational and economical way of progress in the face of the present style of legislatures.

Our opponents' last paragraph has a familiar sound. When in the last ditch, an obstructionist to democracy is prone to charge his opponent with an attempt to change human nature. Well, if human nature is bad, as such obstructionists seem to assume, is it not a praiseworthy, if difficult, pursuit to change it? And he has no reasonable alternative to suggest from which our misguided efforts divert us. Why should he not then cheer us on?

But we think the boot is on the other leg — that it is they who are trying to change human nature, so far as they are trying to change anything. So far as they make any suggestion they offer only the threadbare mockery of "Get the best citizens to the polls" or "Elect better men to office." They keep up this cry in the face of weary experience which shows that their plan can bring nothing of permanent value. It may make a spasm of civic fervor, and a momentary "reform" but nothing more, except an apathy deepened by each recurring disappointment.

The fact is the present political *system* is at fault. It is at fault because it flies in the face of human nature.

It assumes that bodies of representatives, confronted with great temptation, will preferably serve their constituents who have little power to reward, or punish,

rather than powerful special interests, always on the alert, with punishments and rewards, prompt, and certain.

It assumes that representatives can be kept from misusing their power by mere multiplicities of "checks and balances" which obscure responsibility and breed inefficiency quite as effectively as they check hasty action. It assumes that the representative's fear of retirement to private life in addition to the "checks and balances" will ensure to the people the results they want.

It assumes that honest, intelligent voters can be induced to take a proper interest in politics when their share in the work is permitted to be little more than choosing between groups of misrepresentatives, or at least the naming of one hampered and necessarily ineffective representative after another.

It assumes that voters can reasonably be expected to defend themselves with the political apparatus which has produced the present conditions and which the bosses, machines and their beneficiaries strenuously uphold with all the tremendous power at their command.

It assumes, in a word, that human beings are as they are not.

No; we are not trying to change human nature. We are only trying to adapt our institutions to human nature as it is; to secure real popular government in place of sham popular government; and to enable an honest voter for the first time to perform his task with intelligence, dignity and satisfaction.

We believe that much of the bad character sometimes ascribed to human nature comes from the perverted aspect it sometimes assumes under the influence of

privilege, — the enjoyment of privilege, the hope of privilege, oppression by privilege, and the endurance of wrongs from privilege.

But humanity is making progress. Through universal education, some of humanity's time-honored follies are coming to appear in a new light. There is developing a scorn for favor-hunting and favor-enjoying as a life pursuit. As practicable means of getting free are coming into sight, the disposition to endure wrongs from privilege is disappearing.

We who would advance the cause of freedom today are moving against privilege as the basic public evil, a heritage from the ignorance rather than from the wickedness of the past. As privilege is entrenched in the laws, it naturally has assumed practical charge of the law making. The people's first duty in the premises is obviously to put themselves in place of privilege as the actual governing power. They can then eliminate the old abuses as fast as their wisdom, developing with use, points the way. We as loyal Americans see in it simply the struggle of '76 brought down to date, and take the only course conceivably open to us.

No one asserts or expects that the people will not make mistakes. The people will doubtless do such things as well as legislatures and other branches of "pure" representative government! But the people's mistakes will be mistakes in the management of their own business which they themselves will be ready to recognize and quick to correct.

So much for the argument of our present opponents and some of the reasons why it fails to convince. But, it must be noted, they have not stated the real argument

against the Initiative and Referendum. The real argument could be urged against it only by a selfish opponent and would be so urged only by a reckless opponent. But, in the interest of public education — which we assume to be the purpose of these reports, and not mere wit-matching — it is essential that the real opposition be stated. Our opponents have not done it; therefore, we must do it.

Experience has shown us that the backbone of the opposition to the Initiative and Referendum, like the opposition to American independence, to the abolition of chattel slavery and to all other advances of liberty is aversion to change on the part of beneficiaries of things as they are.

The selfish opponent hates the Initative and Referendum because he fears they would bring a change. He desires no change. He is winning with the rules of the game as they are. It is against such that freedom has from the first had to make its weary and blood-stained way. Such are sometimes vulgar grafters, sometimes people, still held to be respectable, who profit by governmental favors delivered by the vulgar grafters, sometimes innocent and often unsuspecting beneficiaries of legalized wrong. Sometimes it is a lot of power loving, or spoils-hunting and spoils-dispensing politicians. Sometimes it is a land tariff or franchise grabber. Sometimes it is one kind of favor hunter or favor defender — sometimes another. We need not enumerate the many ways — legal and otherwise — by which the few can get something for nothing at the expense of the many. We do not wonder that such suspect the public might change some of these things. They have as little

love for effective popular government as did George III. But this kind of an opponent of popular sovereignty does not voice himself openly in public.

But these selfish defenders of privilege have always been able to entrain as voluntary, and often unintentional allies, many of the cultivated and respected. It naturally falls to the lot of such to fight the open battles against extensions of popular power. Often with little comprehension of life, and with that lack of sympathy for the wronged weak which is supposed in Tory circles to indicate a "balanced mind," these honorable gentlemen, turning their very honesty and disinterestedness to the service of privilege, are gladly allowed to do service in the mistaken cause, which their selfish sympathizers could hardly undertake in their own behalf, — witness, among countless other instances, the honored trustees and professors of our theological seminaries of sixty years ago who turned their scholarship and their piety to the support of chattel slavery.

Once, selfish defenders of privilege fought with axe and sword. Now they fight by less messy methods. They use the pussy-foot and gum-shoe up to the point where they can apply the steam-roller — a ready adjunct of the kind of "representative" government which they approve so heartily and which they do not wish to have made responsible to anyone else. They find it bad enough to face the constant risk of the other party machine getting into power. That may mean that privilege must go to some trouble to perfect a possibly neglected grip on the other machine. But that is not fatal. To have the people really get control of their own business, however, would be nothing short of ruinous to this whole system. Very likely under the skilled leadership

of citizens not in the train of the party machines, or special interests, it would spell permanent ruin for Privilege — the very thing democracy was intended and yet intends to accomplish.

This frank selfish argument answers itself. It also shows why we must have the Initiative and Referendum.

If we were to moralize a bit in closing, after the manner of our opponents, we should add:

The spread of education is showing itself in natural and wholesome discontent and unrest all over the world. The people see with increasing clearness that the conditions of life are unjust, and that this need not be. The countries, with nominally free institutions, like this country and England, are really little freer than other countries. Peoples from less favored lands, strangers in our midst, allowed to see only the worst side of their new neighbors, have so little hope of relief, that they are beginning to despair of legal, constitutional methods of redress. The Tory, as ever, harshly represses their efforts for liberty, offers them no hope but frugality and avoidance of bad habits. He urges them to greater industry, and to take means to make their labor more productive when they vaguely feel that they do not get a fair share of what they now produce. He cries to them "Peace! Peace!" — when they know there is no peace — and doles out charity here and there.

Now this is the policy that has led to trouble in the past — trouble that can be avoided now, we dare believe, by providing an adequate means for the people to assume effective control with every incentive for the best, most disinterested, most patriotic leadership to get into service. Parties may come, parties may split, parties

may go, and upheaval may follow upheaval, in the future as in the past, but we believe that this sort of thing, with its attendant misery, is unintelligent, uneconomical and unworthy a twentieth century civilization; that it can and must give way to a regime of orderly, peaceful filling in of the details of freedom so as to achieve the purpose of government laid down a century and a third ago by the people of Massachusetts in the Constitution of their Commonwealth (italics ours):

"Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people, *and not for the profit, honor, or private interest of any one man, family, or class of men.*"

And that it is to the people themselves and not to their representatives and "betters" that these sturdy and typical Americans left the task of seeing that their purpose be no thwarted is plain from the closing words of this same article (italics again ours):

"Therefore, the *people alone* have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it."

If our forefathers were wrong in these views, it is incumbent on someone to point out in what respect. If there is a better and safer next step toward achieving their ideals than the Initiative and Referendum it is incumbent on our opponents to suggest that step. They have not done so. They have made no attempt to do so. Thus they confirm the belief that the next great forward step toward democracy and freedom is the general adoption of a skilfully framed, and intelligently administered Initiative and Referendum.

REBUTTAL FOR THE NEGATIVE

By PROFESSOR C. F. A. CURRIER

The champions and the critics of the Referendum and the Initiative differ fundamentally, perhaps irreconcilably, in this respect: the first seem to fail to recognize in the teachings of experience the value that is seen by their opponents. If history teaches anything, it has demonstrated beyond the possibility of a doubt that those forms and methods of government which have proved themselves to be the most stable, the most successful, the most efficient, are the product of gradual evolution and development, and not of radical innovation.

Representative government is the result of centuries of growth; it is not perfect, and no form of government is ever likely to be perfect; but it may reasonably be claimed for it, in the light of the past and the prospects of the present and future, that better results can be secured through internal improvement than through extraneous substitutions. For, gloss over it as they will, the supporters of the Referendum and Initiative cannot get away from the fact that these institutions, carried to their logical conclusion, mean the substitution of direct for representative government—a system inconceivable as a satisfactory form of government for nation, state or municipality.

An ardent believer in the Referendum and Initiative, after outlining ordinary legislative procedure, sums up

as follows: "Such is the theory of representative government; and as so conceived it would be difficult to imagine a more admirable instrument for popular government and scientific law-making." Why not, then, build upon the foundations already laid through so many generations, instead of trying out a new theory in scale and scope of application, which, even as a theory, and according to the implication in the above statement, is not the equal of the ancient institution, which is itself inherently so admirably adapted to "popular government and scientific law-making."

For some years we have been living in an age of unrest, not merely political but along many other lines as well. In such a period of dissatisfaction we are apt to lose our perspective and to seize upon any plausible cure-all. The Initiative has little or nothing in its favor; the Referendum has some merits, long since recognized, but it is limited in its effective application, and its use should be correspondingly limited.

In the discussion of this subject it would be easy to answer reply with counter-reply and rejoinder with counter-rejoinder, ad infinitum; but this is a needless waste of time and energy. We have survived illusions and delusions of the past, we shall survive this; and in the end representative government will emerge triumphant over any theory of direct legislation.

BIBLIOGRAPHY

The Initiative, Referendum and Recall. Edited by William Bennett Munro. Appleton, 1912. 356 *pp.*

A collection of fifteen essays on different sides of the question by as many different authors, including one by the editor.

Government by All the People, or the Initiative, Referendum and the Recall as Instruments of Democracy. By Delos F. Wilcox, Ph.D. Macmillan, 1912. 324 *pp.*

The most recent monograph on the subject. Arguments pro and con are fully and readably considered. The verdict is favorable to the measures. The full text of the Ohio initiative and referendum amendment, adopted Sept. 3, 1912, is given.

Documents on the State-wide Initiative, Referendum and Recall. By Charles A. Beard and Birl E. Schultz. Macmillan, 1912. 394 *pp.*

A collection of all initiative and referendum constitutional amendments, in force and pending, significant statutes for carrying them into effect, six important judicial decisions, material relating to the state-wide recall, and an analytical introduction by Professor Beard (of Columbia University).

Referendum in America. By E. P. Oberholtzer New Edition. Scribner, 1911. 533 *pp.*

A critical and historical work inclining to opposition.

The Initiative, Referendum and Recall in Switzerland. By W. E. Rappard. Being Publication No. 694, *American Academy Political and Social Science, W. Philadelphia Station, Philadelphia.* 1912. 36 *pp.*

A discriminating review of results in his native country from the point of view of a Swiss scholar. Favorable.